FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7194 OF 2005

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.V.Y.Sanglikar for the petitioner.

Mr.Shyam Diwan with Ms. V.Vaswani i/by M/s. V.V. Juris for the respondent.

CORAM : R.S. MOHITE,J.
DATED : 05/12/2005.

P.C.

1. The Advocate for the petitioner has filed praecipe stating that he would like to withdraw the petition without giving up the contentions as raised in the petition as he would like to file a declaratory suit in the court of Small Causes on the grounds mentioned in Interim Notice No.2602/2005 in Appeal No.488 of 2004 filed in the Court of Small Causes. The said interim notice was for amendment of the written statement. One of the ground raised in the said amendment application was that

fresh tenancy had been created by the acts on behalf of the original plaintiff (present respondent). The admitted position is that the said amendment was disallowed and therefore, the aforesaid issue raised in the said notice was not decided. In the circumstances, petition is allowed to be withdrawn. It is made clear that if any declaratory suit is filed by the petitioner in the court of Small Causes, the same will be decided on merits. All contentions raised in this petition are kept open. Petition stands disposed of.

2. The Advocate for the respondent makes a statement that the decree in question will not be executed for a period of three weeks. This period of three weeks is being granted to enable the petitioner to file a declaratory suit in the Small Causes Court and to seek interim relief.

(R.S. MOHITE, J.)